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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/497,244	02/03/2000	Russell Jarvors	3910.164	7255

42173 7590 06/02/2005

LAW OFFICE OF RICHARD B. KLAR
28 East Old Country Road
Hicksville, NY 11801

EXAMINER

DALENCOURT, YVES

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/497,244

Applicant(s)

JARVORS, RUSSELL

Examiner

Yves Dalencourt

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 24 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 24, and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is responsive to amendment filed on 03/11/05.

Response to Amendment

2. The examiner has acknowledged the amended claims 2, 24, and 30, and the cancellation of claims 1, 3 – 23, 25 – 29, and 31 – 36. The objection of claims 2, 24, and 30 has been withdrawn.

Claim Rejections - 35 USC § 112

3. Claims 2, 24, and 30 recite the limitation "the security alarm **device**" in (claim 2, lines 5 and 13; claim 24, line 7; and claim 30, line 6). There is insufficient antecedent basis for this limitation in the claim since – A security alarm **device** has not previously been identified in the claims.

Response to Arguments

4. Applicant's arguments filed on 03/11/05 have been fully considered but they are not persuasive.

In response to Applicant's argument (paragraph bridging pages 5 and 6), that the obviousness rejections to claims 2, 24, and 30 should be removed because a prima facie case of obviousness has not been established), the examiner recognizes that reference cannot be arbitrarily combined and that there must be some reason why one

skilled in the art would be motivated to make the proposed combination of primary reference and applicant's admitted prior art. In re Nomiya, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. In re McLaughlin, 170 USPQ 209 (CCPA 1971). In this case, Sanders et al teaches all the limitations, except for a toy, and Applicant admits that it is desired in the toy vehicle business to replicate as much of the real vehicle as possible. Sanders et al shows real vehicle operations. Therefore, it would be obvious to replicate real vehicle operations as evidenced by Applicant's admitted prior art for the purpose of providing a toy vehicle security alarm system.

In this case, Sanders et al teaches all the limitations, except for a toy, and Applicant admits that it is desired in the toy vehicle business to replicate as much of the real vehicle as possible. Sanders shows real vehicle operations. Therefore, it would be obvious to replicate real vehicle operations as evidenced by Applicant's admitted prior art for the purpose of providing a toy vehicle security alarm system.

In view of such, the rejection is maintained and repeated as follows:

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 24, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders et al (US 4,754,255., hereinafter Sanders) in view of Applicant's admitted prior art (page 1 of the specification).

Regarding claims 2, 24, and 30, Sanders teaches a user identifying vehicle control and security device, which comprises a security alarm device (figure 3) comprising a controller (38, figure 3) and having an armed state and an unarmed state, the controller being responsive to a signal input to at least one input thereof to cause the security alarm device to selectively assume the armed and unarmed states (paragraph bridging col. 4, line 54 through col. 5, line 10); a signaling device coupled to the controller and responsive to provide an audio or visual alarm signal (paragraph bridging col. 10, line 63 through col. 11, line 2); the controller causing the signaling device to provide an alarm signal with a change of state of the security alarm device between its armed state and its unarmed state (col. 5, lines 14 - 43).

Sanders teaches all the limitations, but fails to specifically teach that such security alarm system in a toy vehicle.

Applicant admits in the background that toy designers seek to provide toys which replicate real life such as toy vehicles. Applicant also mentions that miniature toy vehicles are sold which seek to replicate in appearance the full-scale real life versions down to minute details by providing somewhat larger than miniatures with sound effects by remote control (see second paragraph of the specification). It is known that real

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vehicles use sound effects as a security alarm system. Sanders further shows real vehicle operations using a remote control as mentioned above.

Therefore, it would be obvious to replicate real vehicle operations as evidenced by admitted prior art for the purpose of providing a toy vehicle security alarm system.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (571) 272-3998. The examiner can normally be reached on M-TH 7:30AM - 6: 00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yves Dalencourt
Y.D.
May 23, 2005


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SUPERVISORY PATENT EXAMINER
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